

1 Adopt 2 Cal. Code Regs. section 18531.7 as follows¹:

2
3 **18531.7. Payments for Communications -- Section 85312.**

4 (a) Organization Making the Payment. For purposes of Government Code section 85312, a
5 “payment for communications” is any payment made by an organization for communications
6 including newsletters, letters, fliers, and other forms of communications to its members, employees,
7 or shareholders, or to the families of its members, employees, or shareholders. A payment for
8 communications does not include any payment made by an organization for general public
9 advertising such as broadcasting, billboards, and newspaper advertisements or for communications to
10 any person who is not a member, employee, or shareholder, or families of members, employees, or
11 shareholders of the organization.

12 (1) An “organization” means a proprietorship, firm, partnership, joint venture, syndicate,
13 business trust, company, corporation, limited liability company, association, and any other
14 organization or group of persons acting in concert, but excludes a political party, candidate,
15 **{Decision 1}** [committee,] or individual.

16 (2) An organization has members for purposes of Government Code section 85312 if it
17 **{Decision 2}** [is not operated for profit and] either is comprised of 25 members or less or meets all of
18 the following:

19 (A) Is composed of members, some of whom are vested with the power and authority to
20 operate or administer the organization, pursuant to the organization’s articles, bylaws, constitution or
21 other formal organizational documents;

22 (B) Expressly states the qualifications and requirements for membership in its articles, bylaws,
23 constitution or other formal organizational documents;

¹ Brackets indicate decision points.

1 (C) Makes its articles, bylaws, constitution or other formal organizational documents available
2 to its members;

3 (D) Expressly solicits persons to become members; and

4 (E) Expressly acknowledges the acceptance of membership, such as by sending a
5 membership card or including the member's name on a membership newsletter list.

6 (3) "Member" means any person who currently satisfies the requirements for membership in
7 an organization that has members pursuant to subdivision (a)(2) of this regulation and either:

8 (A) Pays annual membership dues or pays an amount predetermined by the organization;

9 (B) Has a financial attachment {Decision 3} [of \$2000] to the organization, such as an
10 investment or ownership stake;

11 (C) Has a significant organizational attachment to an organization, other than as described in
12 subdivision (a)(3)(D) below, provided the organization consists of 25 or fewer individuals; or

13 (D) Has a significant organizational attachment to the organization which includes affirmation
14 of membership on at least an annual basis and participatory rights in the governance of the
15 organization. Participatory rights include but are not limited to the following:

16 (i) The right to vote for at least one individual on the organization's highest governing board;

17 (ii) The right to vote on policy questions where the highest governing body of the membership
18 is obligated to abide by the results;

19 (iii) The right to approve the organization's annual budget; or

20 (iv) The right to participate directly in similar aspects of the organization's governance.

21 (4) A person is not a "member" of an organization if the person is on a mailing or contact list
22 of the organization {Decision 1 Cont'd.} [, or in the case of a committee if the person has made a

1 contribution to the organization ,] without meeting the definition provided in subdivision (a)(3) of this
2 regulation.

3 (5) “Shareholder” means any {Decision 4} [person] [individual] who is a holder of record of
4 an equity interest as provided for in the articles of incorporation of the corporation.

5 (6) “Family” means a member’s, employee’s, or shareholder’s spouse, dependent children,
6 and parents who reside with the member, employee, or shareholder.

7 (b) Calculation of Payments Subject to Government Code section 85312. A
8 “payment for communications” includes the following payments:

9 (1) Any payment made by an organization for costs directly attributable to the communication
10 including but not limited to salaries, production, postage, space or time purchased, agency fees,
11 printing and any additional administrative or overhead costs attributable to the communication
12 {Decision 5} [, provided the organization maintains detailed accounts, records, bills, and receipts to
13 demonstrate compliance with this provision].

14 (2) Any payment for costs directly attributable to a communication from an organization
15 inadvertently delivered to persons other than members, employees, or shareholders or families of
16 members, employees, or shareholders provided those costs do not exceed \$100 or 5% of the total cost
17 of the communication to an organization’s members, employees, or shareholders or families of
18 members, employees, or shareholders, whichever is {Decision 6} [lower/higher], notwithstanding
19 subdivision (b)(1) above.

20 (c) Contributions or Expenditures. A “payment for communications” as defined in
21 subdivision (a) of this regulation in support of or in opposition to a candidate or ballot measure is
22 or is not a contribution or expenditure as provided below.

1 (1) A payment that is made at the behest of a candidate or committee for communications to
2 members, employees, shareholders, or families of members, employees, or shareholders of an
3 organization for the purpose of supporting or opposing the candidate or ballot measure supported or
4 opposed by the committee {Decision 7} [is/is not] a contribution to the candidate or committee.

5 **{Decision 8}**[(2) A payment that is made by another person to an organization and is
6 earmarked for communications to members, employees, shareholders, or families of members,
7 employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or
8 ballot measure is a contribution to the organization.

9 (3) A payment that is made by another person to an organization or a political party at the
10 behest of a candidate or ballot measure committee and is earmarked for communications to members,
11 employees, shareholders, or families of members, employees, or shareholders of an organization or a
12 political party for the purpose of supporting or opposing the candidate or ballot measure is a
13 contribution from the person to the candidate or ballot measure committee, and the organization or
14 political party is an intermediary within the meaning of Government Code section 84302 and 2 Cal.
15 Code Regs. section 18432.5.]

16 **{Decision 1 Cont'd.}** [(d) If the organization is a committee organized under Government
17 Code section 82103(a) and therefore already subject to the reporting requirements of Chapter 4 of this
18 title, the payment is reportable as an expenditure in accordance with the requirements of Government
19 Code section 84211, subdivisions (b), (i), (j) and (k).]

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21 NOTE: Authority cited: Section 83112, Government Code.
22 Reference: Sections 82015, 82025, 85303, 85312 and 85703, Government Code.
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